

Appln No. 10/571,985
Amdt date October 25, 2010
Reply to Office action of August 30, 2010

REMARKS/ARGUMENTS

Claims 19-42 are pending in the above-referenced application.

This is a response to the Office Action dated August 30, 2010 wherein the Examiner objected to the Abstract for improper language and format and rejected: (1) claims 19-26, 29-31 and 37-39 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,727,803 (Cobb); (2) claims 32-36 and 40 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of U.S. Patent No. 4,986,053 (Schaefer); (3) claim 41 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Schaefer as applied to claim 38 above, and further in view of U.S. Patent No. 5,547,900 (Larkin); (4) claim 27 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Larkin; and (5) claim 28 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,171,412 (Braun).

Claim 42 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully thanks the Examiner for the time and effort in preparing and issuing the instant Action and for the conditional allowance of claim 42.

In view of the remarks that follow, reconsideration and a notice of allowance are respectfully solicited.

Objection to the Specification

The Examiner objected to the Abstract for improper language and format. Applicant has amended the Abstract as indicated above. In view of the amendment, rescission of the objection is respectfully requested.

§ 102(b) Rejection of Claims 19-26, 29-31 and 37-39 by Cobb

In rejecting claims 19-26, 29-31 and 37-39 under § 102 (b) over Cobb, the Examiner alleges that the '803 Cobb patent discloses all the claimed elements.

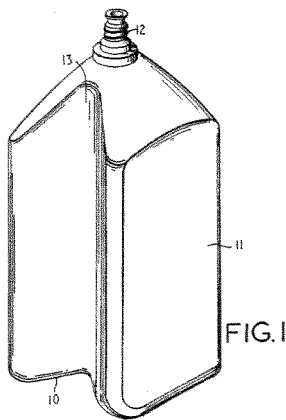
Preliminarily, for a reference to anticipate a claimed invention under § 102(b), it must adequately meet the terms of the claimed invention interpreted in light of the specification of the application. As set forth in the statute, the single prior art reference must disclose each and every element of the claim under consideration. Moreover, it cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

Of the rejected claims, claims 19, 29 and 38 are independent claims.

Previously presented independent claim 19 recites:

19. (Previously Presented) A molded container for liquid infusion, said container comprising a plurality of walls including a first side wall and a second side wall, two collapsible walls each being disposed in between the first side wall and the second side wall, a bottom wall configured for standing upright, and a shoulder portion having a port for filling fluid into or discharging fluid out of an interior cavity defined by the plurality of walls, wherein the bottom wall comprises an interior wall surface and an exterior wall surface and a fold line separating the interior wall surface into a first interior section and a second interior section; and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and wherein portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

Thus, claim 19 makes clear that that the container has a collapsed position and wherein portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container is in the collapsed position.



The '803 Cobb reference discloses a collapsible container for holding and dispensing viscous or semi-liquid products (Abstract, Fig. 1, reproduced herein). The collapsible container disclosed by Cobb comprises a relatively thick and rigid base 10, which provides a level support for the container (Col. 1, lines 52-53) and two opposing flat and planar walls 11

extending from the base 10. The base 10, from the bottom view, has the shape of "*two similar*

trapezoids united along the shorter of their parallel sides" (Fig. 2, reproduced herein, Col. 1, lines 54-56). By virtue of the shape of the base 10, the two other opposing walls 13 have a V-

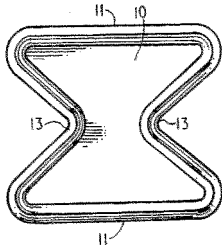


FIG.2

shaped configuration which allows the container to collapse to a substantially flat position (Col. 1, line 65 to Col. 2, line 4). The base 10, however, because of its rigidity, will not collapse along with the collapsible walls 13 (Col. 2, lines 5-6). To completely expel the remaining content in the container, Cobb teaches

"fold[ing] up opposite edges of the base 10 towards the center line of the container about the line along which the shorter parallel sides of the two trapezoids are joined." (Col. 2, lines 4-9, emphasis added). Cobb further teaches: *"To assist in folding up the base, the container may be formed with an inwardly directed indentation across the line of folding of the base."* (Col. 2, lines 18-20, emphasis added).

Claim 1 of the '803 Cobb patent further describes the folding of the base 10 as follows:

. . . with said base retaining its flat configuration until a considerable amount of the material has been dispensed and then folding said base over across its narrow dimension with the fold line in said base extending outwardly from the lower ends of said side walls for providing the container with a substantially flat configuration for allowing practically all the entire contents to be expelled from the container. (Col. 2, lines 57-65, emphasis added).

As described, Cobb teaches folding up the two opposite straight sides of the base 10 towards the center line of the container such that the fold line of the base 10 extends outwardly. In folding the base 10 in the disclosed manner, it is clear that the exterior wall surface of the base 10 moves towards the interior cavity of the container and not outwardly. In other words, no portions of the base 10 moves outwardly away from the interior cavity from a first position to a second position further outwardly when the container collapses. Thus, Cobb does not disclose, among other things, a molded container wherein portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity, as recited in part in claim 19.

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As the '803 Cobb reference fails to disclose each and every element of claim 19, it fails to anticipate claim 19 under § 102(b). Since claims 20-26 and 37 depend either directly or indirectly from claim 19, they too are allowable for at least the same reason.

Of the other rejected claims, previously presented independent claim 29 recites:

29. (Previously Presented) A method for manufacturing a molded standing container for infusion liquids comprising the steps:
extruding a preform of a polymer material; and
expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

Thus, claim 29 is directed to a method for manufacturing a molded standing container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

As set forth above, the base 10 of the Cobb's container is folded up towards the center line of the container, such that the fold line on the base 10 extends outwardly. In other words, no portion of the base 10 moves radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses. Thus, Cobb does not disclose each and every element of the claimed method and therefore fails to anticipate claim 29 under § 102(b). As claims 30-31 depend from claim 29, they too are allowable over the '803 Cobb patent for at least the same reason.

Of the other rejected claims, previously presented independent claim 38 recites:

38. (Previously Presented) A molded container for liquid infusion, said container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising an exterior surface and an interior surface, and a

shoulder portion of reduced cross-section forming a discharge end; said plurality of side walls comprising means for collapsing at least two of said side walls; and said bottom wall comprising means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses.

Similar to claim 19, claim 38 is directed to a molded container which comprises a plurality of side walls and a bottom wall defining an interior cavity. Claim 38 makes clear that the bottom wall comprises means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses.

As set forth above, Cobb teaches folding up the two opposite straight sides of the base 10 **towards** the center line of the container such that the fold line of the base 10 extends outwardly. In folding the base 10 in the disclosed manner, it is clear that the exterior wall surface of the base 10 moves **inwardly** towards the interior cavity of the container. In other words, no portions of the base 10 move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses. Thus, Cobb does not disclose each and every element of the claimed container and therefore fails to anticipate claim 38 under § 102(b). As claim 39 depends from claim 38, it too is allowable over the '803 Cobb patent for at least the same reason.

§ 103(a) Rejection of Claims 32-36, 40 by Cobb in view of Schaefer

In rejecting claims 32-36 and 40 as being unpatentable over Cobb in view of Schaefer, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention; however the Cobb reference lacks the preform of the container being a multi-layer preform consisting of an overall wall thickness.” The Examiner relies on Schaefer to teach a container having a multi-layer preform (Office Action, page 4).

Of the rejected claims, claims 32-36 depend either directly or indirectly from claim 29 and claim 40 depends from claim 38.

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As set forth above, the '803 Cobb patent fails to anticipate claim 29 for failing to disclose each and every element of the pending claim. As the '053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the '803 Cobb reference. Even if combinable, a position that Applicant does not concede, the cited references of Cobb and Schaefer still fail to disclose all the elements and limitations of claim 29. At a minimum, the cited references do not disclose a method for manufacturing a molded standing container for infusion liquids, comprising in part the step of expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses, as recited in part by claim 29. Thus, the cited references fail to render claim 29 obvious under § 103(a). As claims 32-36 depend from claim 29, they too are allowable for at least the same reason.

Similarly, as set forth above, the '803 Cobb reference fails to anticipate claim 38 for failing to disclose each and every element of the pending claim. As the '053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the '803 Cobb reference. Even if combinable, a position that Applicant does not concede, the cited references of Cobb and Schaefer still fail to disclose all the elements and limitations of claim 38. At a minimum, the cited references do not disclose a molded container for liquid infusion, the container comprising in part a bottom wall comprising means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses, as recited in part by claim 38. Thus, the cited references fail to render claim 38 obvious under § 103(a). As claims 40 depends from claim 38, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 41 by Cobb in view of Schaefer and further in view of Larkin

In rejecting claim 41, the Examiner relies on Cobb in view of Schaefer to “disclose substantially all the structure and functionality of the invention, however, [] both references lack two ports at the discharge end of the container”. The Examiner relies on Larkin to teach a container for liquids having a discharge end consisting of two ports. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Larkin to come up with the claimed container. (Office Action, page 5).

Claim 41 depends from claim 38. As set forth above, the cited references of Cobb and Schaefer fail to render claim 38 obvious for not disclosing all the elements and limitations of the pending claim. As Larkin is merely relied on to disclose a discharge end with two ports, Larkin does not cure the deficiencies of Cobb and Schaefer. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 38 obvious under § 103(a). As claim 41 depends from claim 38, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 27 by Cobb in view of Larkin

In rejecting claim 27, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention, however, the Cobb reference lacks a container with a port having a pierceable membrane”. The Examiner relies on Larkin to teach a container for liquids having a discharge end having at least one port with a pierceable membrane. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Larkin to come up with the claimed container. (Office Action, page 5).

Claim 27 depends from claim 19. As set forth above, the ‘803 Cobb reference fails to anticipate claim 19 since it fails to disclose each and every element of the pending claim. As Larkin is merely relied on to disclose a discharge end having at least one port with a pierceable

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membrane, Larkin does not cure the deficiencies of Cobb. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 19 obvious under § 103(a). As claim 27 depends from claim 19, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 28 by Cobb in view of Braun

In rejecting claim 28, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention, however, the Cobb reference lacks the bottom wall of the container having a projecting suspension lug”. The Examiner relies on Braun to teach a container for biological liquids having a bottom wall with a projecting suspension lug (12) for the purpose of suspending the container to expel the liquids efficiently from the container. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Braun to come up with the claimed container. (Office Action, page 6).

Claim 28 depends from claim 19. As set forth above, the ‘803 Cobb reference fails to anticipate claim 19 since it fails to disclose each and every element of the pending claim. As Braun is merely relied on to disclose a bottom wall having a projecting suspension lug, Larkin does not cure the deficiencies of Cobb. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 19 obvious under § 103(a). As claim 28 depends from claim 19, it too is allowable for at least the same reason.

Allowable subject matter

Claim 42 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Applicant respectfully thanks the Examiner for conditionally allowing claim 42 but will defer amending it at this time with reservation that it may be amended at a future time.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that claims 19-42 are patentable over the cited prior art and a notice of allowance is respectfully solicited.

Should the Examiner find it necessary to speak with Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number identified below.

Respectfully submitted,
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